

**CLEAN, RENEWABLE, AND EFFICIENT ENERGY ACT (EXCERPT)**  
**Act 295 of 2008**

**460.1053 Failure to meet renewable energy credit standard by deadline; civil action; contested case; final order.**

Sec. 53. (1) If an electric provider whose rates are regulated by the commission fails to meet a renewable energy credit standard by the applicable deadline, subject to any extensions under section 31, both of the following apply:

(a) The electric provider shall purchase sufficient renewable energy credits necessary to meet the renewable energy credit standard.

(b) The electric provider shall not recover from its ratepayers the cost of purchasing renewable energy credits under subdivision (a) if the commission finds that the electric provider did not make a good faith effort to meet the renewable energy standard, subject to any extensions under section 31.

(2) The attorney general or any customer of a cooperative electric utility that has elected to become member-regulated under the electric cooperative member-regulation act, 2008 PA 167, MCL 460.31 to 460.39, may commence a civil action for injunctive relief against such a cooperative electric utility if the electric provider fails to meet the applicable requirements of this subpart or an order issued or rule promulgated under this subpart.

(3) An action under subsection (2) shall be commenced in the circuit court for the circuit in which the principal office of the cooperative electric utility that has elected to become member-regulated is located. An action shall not be filed under subsection (2) unless the prospective plaintiff has given the prospective defendant and the commission at least 60 days' written notice of the prospective plaintiff's intent to sue, the basis for the suit, and the relief sought. Within 30 days after the prospective defendant receives written notice of the prospective plaintiff's intent to sue, the prospective defendant and plaintiff shall meet and make a good faith attempt to determine if there is a credible basis for the action. If both parties agree that there is a credible basis for the action, the prospective defendant shall take all reasonable and prudent steps necessary to comply with the applicable requirements of this subpart within 90 days of the meeting.

(4) In issuing a final order in an action brought under subsection (2), the court may award costs of litigation, including reasonable attorney and expert witness fees, to the prevailing or substantially prevailing party.

(5) Upon receipt of a complaint by an alternative electric supplier's customer or on the commission's own motion, the commission may conduct a contested case to review allegations that the alternative electric supplier has violated this subpart or an order issued or rule promulgated under this subpart. If the commission finds, after notice and hearing, that an alternative electric supplier has violated this subpart or an order issued or rule promulgated under this subpart, the commission shall do 1 or more of the following:

(a) Revoke the license of the alternative electric supplier.

(b) Issue a cease and desist order.

(c) Order the alternative electric supplier to pay a civil fine of not less than \$5,000.00 or more than \$50,000.00 for each violation.

(6) Upon receipt of a complaint by any customer of a municipally-owned electric utility or upon the commission's own motion, the commission may review allegations that the municipally-owned electric utility has violated this subpart or an order issued or rule promulgated under this subpart. If the commission finds, after notice and hearing, that a municipally-owned electric utility has violated this subpart or an order issued or rule promulgated under this subpart, the commission shall advise the attorney general. The attorney general may commence a civil action for injunctive relief against the municipally-owned electric utility in the circuit court for the circuit in which the principal office of the municipally-owned electric utility is located.

(7) In issuing a final order in an action brought under subsection (6), the court may award costs of litigation, including reasonable attorney and expert witness fees, to the prevailing or substantially prevailing party.

**History:** 2008, Act 295, Imd. Eff. Oct. 6, 2008.

**Compiler's note:** Enacting section 1 of Act 295 of 2008 provides: "Enacting section 1. As provided in section 5 of 1846 RS 1, MCL 8.5, this act is severable."